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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,348	03/30/2004	Larren F. Jones	51291.00081	2685

54327 7590 10/19/2006

ESCO CORPORATION  
2141 NW 25TH AVENUE  
P.O. BOX 10123  
PORTLAND, OR 97210

EXAMINER
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BEACH, THOMAS A

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/812,348

Applicant(s)

JONES ET AL.

Examiner

Thomas A. Beach

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on amendment filed 07/11/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14, 32 and 35-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9, 14, 32 and 35-37 is/are allowed.
- 6) ☒ Claim(s) 10-13 and 38-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. Claims 10-13 and 38-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Quarfordt 5,802,752. Quarfordt shows a lock (15) adapted to be received in a wear member (1) for holding the wear member (1) to a structure of an excavator subject to wear, the lock (15) having body having an elongate, arcuate configuration (Fig. 3) with a concave side in one direction, a convex side in second direction; a movable take-up element (16) projecting from the body for tightening the connection of the wear member on the structure in a third transverse direction (part of element 16 extends transversely because the claimed direction have no thickness element 16 does which constitutes the transverse direction), and a latch (22) projecting from the body for retaining the lock in the wear member (column 3 lines 4-6).

Regarding claim 11, the body (15) includes a first end (near 22) and a second end (near 16), wherein the body is generally parallel to the first and second directions and is wider at the second end than at the first end.

Regarding claim 12, the body (15) gradually tapers from the second end to the first end (Fig. 3).

Regarding claims 13 and 39, the take-up element (16) and latch (22) are each a resilient member due to rubber filling (20, 21).

Regarding claim 40, the resilient member (20, 21) is an elastomer.

Regarding claims 41 and 46, the latch (22) acts as a detent for holding the lock in the wear member (1) during use and is considered a retainer for releasably retaining the locking member.

Regarding claim 42, the take-up element (16) and detent (22) each include a resilient member due to rubber filling (20, 21).

Regarding claim 43, the body (15) has a narrow, elongate configuration (Fig. 3).

Regarding claim 44, the body includes a pair of opposite ends (near 16 and 22) and gradually narrows from one end to the other (Fig. 3).

#### ***Allowable Subject Matter***

2. Claims 1-9, 14, 32 and 35- 37 are allowed.

#### ***Response to Arguments***

3. Applicant's arguments filed 07/2006 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the rejection above points out the newly amended claimed subject matter.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Beach whose telephone number is 571.272.6988. The examiner can normally be reached on Monday-Friday, 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 571.272.6998. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thomas A. Beach

October 16, 2006

**THOMAS A. BEACH**  
Primary Examiner  
Group 3600